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46363	7590	06/21/2011	EXAMINER	
WALL & TONG, LLP/ ALCATEL-LUCENT USA INC. 25 James Way Eatontown, NJ 07724			BELANI, KISHIN G	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN F. KNITTEL, MADHAV MOGANTI, and
NATARAJ RAO

Appeal 2009-006980
Application 10/780,833
Technology Center 2400

Before ALLEN R. MacDONALD, JASON V. MORGAN, and
ERIC B. CHEN *Administrative Patent Judges*.

MORGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Introduction

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1 – 4 and 6 – 27. We have jurisdiction under 35 U.S.C. § 6(b).

Exemplary Claim

1. An apparatus for use in a communication network, comprising:

a gateway operable within said network for receiving a request for a resource having embedded data and, in response to said request, for obtaining said resource and said embedded data using a resource index file having information regarding said resource and said embedded data, for bundling said resource and said embedded data into a file, and for sending said file.

(App. Br. 21, Claims App'x).

Rejections and Appellants' Contentions

Appellants contend that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Morlitz (US 2002/0065800 A1) and Pepper (US 7,206,777 B2) because:¹

The combination of Morlitz and Pepper fails to teach or suggest obtaining a resource and the resource's embedded data using a resource index file having information regarding the resource and the embedded data (App. Br. 11 – 16).

¹ Separate patentability is not argued for claims 2 – 4 and 6 – 27.

ISSUE

Did the Examiner err in finding that the combination of Morlitz and Pepper teaches or suggests obtaining a resource and embedded data using a resource index file having information about the resource and the embedded data?

ANALYSIS

We have reviewed the Examiners' rejections in light of Appellants' arguments (Appeal Brief and Reply Brief) that the Examiner has erred.

We disagree with Appellants' conclusion. We adopt as our own (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellants' Appeal Brief. We concur with the conclusion reached by the Examiner.

Furthermore, we do not find persuasive Appellants' argument that Pepper fails "to teach or suggest that the index file 155 includes any information which may be used to obtain XML document 110 [the resource] or use of index file 155 to obtain XML document 110" (Reply Br. 2).

Pepper repeatedly teaches joint management of a resource and its embedded data (e.g., joint archival (col. 5, ll. 46 – 48), joint retention management (col. 5, ll. 51 – 52), and joint retrieval (col. 3, ll. 65 – 67) of a resource, an XML document, and its embedded data, the XML document's associated resources). Pepper teaches placing information about the resource's embedded data in an index file so "that the data can later be retrieved with ease, for example by customer name" (col. 5, ll. 64 – 67). Pepper also teaches "receiving a search request to retrieve an archived

[XML] document” (col. 3, ll. 61 – 62). Thus, to an artisan of ordinary skill, Pepper would have taught or suggested placing information about the resource (which is jointly managed with the resource’s embedded data) in the index file (to make it easier . . .) and using the index file in obtaining the resource (. . . to respond to a search request for the resource).

Accordingly, we find no error in the Examiner’s rejections of claims 1 – 4 and 6 – 27.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that the Examiner did not err in finding that the combination of Morlitz and Pepper teaches or suggests obtaining a resource and embedded data using a resource index file having information about the resource and the embedded data.

DECISION

We affirm the Examiner’s decisions rejecting claims 1 – 4 and 6 – 27 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

KMF